The argument was strongly urged in the present case that the arrest was by process of court, and could properly have been made only within the jurisdiction of the court where the original suit was brought and the bail piece issued. This argument, however, is untenable; for the bail piece, unlike a sheriff's writ, is not the authority by which the arrest is made. The relation subsisting between the parties is the authority for the arrest, and the bail piece is merely evidence of that relation. No good reason can be suggested why this relation, like that of master and servant, or husband and wife, should not be maintained in any State or jurisdiction. That it is so maintained has been decided by the United States Supreme Court, and this view is supported by all competent authority. *Taylor* v. *Taintor*, 16 Wall. 371; *Commonwealth* v. *Brickett*, 8 Pick. 237.

RELIGIOUS LIBERTY UNDER THE FEDERAL CONSTITUTION. — Except in the case of *Reynolds* v. *U. S.*, 98 U. S. 145, where it was held that the Mormons were not constitutionally entitled to practise polygamy, the first clause of the First Amendment to the Constitution of the United States, providing that "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof," has never been fairly brought up for judicial construction, until a recent case in the Supreme Court of the District of Columbia. In this case, *Bradford* v. *Roberts* (reported in 26 Wash. Law Rev. 84), the Court restrained the application of public funds to the construction of a building on the grounds of the Providence Hospital in Washington. Congress had appropriated money for a building, to be erected on the grounds of a hospital within the District of Columbia, at the discretion of the commissioners of the District; and the commissioners made an agreement with the directors of this institution, which was under Roman Catholic control, to construct the building on their grounds, to put it under their management, and to pay them for the sick that might be sent there by the District. That this agreement was beyond the authority of the commissioners is made to appear clearly from the appropriating act, which contains a section declaring that it is against the policy of the government to make any appropriation in aid of a sectarian institution. Apart from this express restriction, however, it was held that the agreement was unconstitutional. For this decision no judicial precedent is quoted, nor any authority except two messages of President Madison vetoing acts passed by Congress for the benefit of religious societies, as in conflict with the first Amendment. The first of these acts seems to have amounted to little more than a grant of corporate privileges to a church and the prescription of various regulations as to its management. Congress, however, has frequently incorporated churches and sectarian institutions, nor can any objection be taken to such charters so long as all regulations contained in them are construed as affecting merely the secular affairs of the corporation. There seems to have been no sufficient ground, therefore, for the veto in the case of this act. The second act was simply a grant of land to a church, and presented a case somewhat similar to that of *Bradford* v. *Roberts*. That the second veto and the decision of this recent case were alike correct seems clear. It may be said that in the case under discussion the money was to be expended not so much for the benefit of the institution as for the benefit of the District whose sick poor people, according to the agreement, were to be

received there. The directors of the institution, however, would certainly acquire an interest in the building, and have possession and control of it, as well as the spending of the money which might be paid by the government for the care of the sick. If this use of public money were allowed, it would form a sufficient precedent for appropriations to any sort of sectarian institution which could be made the instrument of public charity; and such appropriations would very easily afford opportunities for discriminations entirely against the spirit of the Constitutional provision. To connect the administration of public charity with any organization under sectarian control is a step in the direction of an establishment of religion.

What Congress would be restrained from doing under the first Amendment can best be conjectured from a comparison of the numerous cases which have arisen under similar prohibitions in State Constitutions. The language of these Constitutions, though often much more explicit in forbidding aid to sectarian institutions, would not seem to cover any more ground than the general words of the Federal Constitution. As the State courts have almost always been very strict in condemning any sort of State aid to a school or charity under the control of any religious sect, so also it seems likely that the Federal courts, if occasion shall arise, will be strict in applying the prohibitions of the First Amendment.

GIVING A JUDGE THE LIE. — An interesting point in the law of contempt was recently passed upon by the Supreme Court of California in the case of *McClatchy* v. *Superior Court*, 51 Pac. Rep. 696. While a cause was on trial in the Superior Court, a newspaper in the town published what purported to be the testimony of one of the witnesses. On seeing the article the judge stated from the bench that it was entirely false and a gross fabrication, to which the newspaper, in its afternoon issue of that day, replied that the judge, "a prejudiced and vindictive Czar, . . . knew that the statement made in the *Bee* was essentially correct . . . when he shamelessly and brazenly declared it to be a gross fabrication." On being charged with contempt of court, the editor, at the hearing, desired to introduce witnesses to show that the report of the testimony in the *Bee* was correct. This the judge refused to allow, but permitted the defendant to show that the publications were made without malice. The defendant declined to avail himself of such privilege, and was adjudged guilty of contempt. On *certiorari*, the majority of the Supreme Court held that the refusal to permit defendant to prove the truth of the first publication denied to him his constitutional right to be heard in his own defence. The gravamen of the charge, say the court, was the alleged false character and wrongful intent of the first publication, to which charge proof that the report was true and without malice would constitute a complete defence. Three judges dissented, and their views are expressed in a strong opinion by Harrison, J.

It would seem that the grounds of the dissent were well taken. As Justice Harrison pointed out, it was not the report of the testimony that constituted the offence, but the subsequent publication stating that the judge knowingly lied, and attempting to make him accept the newspaper's version of the testimony. Assuming that version to have been correct, it certainly seems that the language of the second article tended to prejudice the judge as well as the public on the merits of the cause on trial,